

## Internal Revenue Service

Department of the Treasury  
Washington, DC 20224

Number: **202103008**

Release Date: 1/22/2021

Index Number: 7701.00-00, 9100.00-00,  
9100.31-00

Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact:  
, ID No.

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Refer Reply To:  
CC:PSI:B03  
PLR-110516-20

Date:  
October 23, 2020

### LEGEND

Company =

A =

X =

Agency =

Commissioner =

State =

Court =

Liquidation Order =

Special Deputy =

Receiver

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Year 1 =

Year 2 =

Year 3 =

Year 4 =

Dear :

This letter responds to a letter dated April 20, 2020, and subsequent correspondence, submitted on behalf of Company by Company's authorized representative, requesting an extension of time under § 301.9100-3 of the Procedure

and Administration Regulations to file an election under § 301.7701-3 to be treated as an association taxable as a corporation for federal tax purposes.

### FACTS

According to the information submitted, Company was formed on Date 1 under the laws of State as a limited liability company. At the time of its formation, Company was wholly owned by X, a State limited liability company that was formed by A on Date 1. A was the sole member and manager of X. Information submitted indicates a second owner may have subsequently acquired an interest in X.

On Date 3, Agency sought and received Liquidation Order from Court to place Company into liquidation under State law. Court appointed Commissioner liquidator and receiver and appointed Special Deputy Receiver to act on behalf of Commissioner. Under the Liquidation Order, the Special Deputy Receiver took possession of Company's operations and assets for liquidation. Since Date 3 and as directed by the Liquidation Order, Special Deputy Receiver has controlled Company under the supervision of Court.

The Special Deputy Receiver represents that it relied on a qualified tax professional to provide tax advice regarding Company, however, the tax professional failed to advise the Special Deputy Receiver of the need to file Form 8832, Entity Classification Election. Thus, the Special Deputy Receiver did not timely file Form 8832, Entity Classification Election, to elect for Company to be classified as an association effective Date 3.

Special Deputy Receiver on behalf of Company represents that it has acted reasonably and in good faith, and that granting relief will not prejudice the interests of the Government. It is further represented that such relief would not result in a lower tax liability in the aggregate for all taxable years to which the request applies.

### LAW AND ANALYSIS

Section 301.7701-3(a) provides, in part, that a business entity that is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8) (an eligible entity) can elect its classification for federal tax purposes as provided in § 301.7701-3. An eligible entity with at least two members can elect to be classified as either an association (and thus a corporation under § 301.7701-2(b)(2)) or a partnership, and an eligible entity with a single owner can elect to be classified as an association or to be disregarded as an entity separate from its owner.

Section 301.7701-3(c)(1)(i) provides that an eligible entity may elect to be classified other than as provided under § 301.7701-3(b), or to change its classification, by filing Form 8832, Entity Classification Election, with the appropriate service center. Under § 301.7701-3(c)(1)(iii), this election will be effective on the date specified by the

entity on Form 8832 or on the date filed if no such date is specified. The date specified on Form 8832 cannot be more than 75 days prior to the date on which the election is filed and no more than 12 months after the date the election is filed.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I. Section 301.9100-1(b) provides that the term "regulatory election" includes an election whose due date is prescribed by a regulation published in the Federal Register.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make the election. Section 301.9100-2 provides the standards the Commissioner will use to determine whether to grant an automatic extension of time for making certain elections.

Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2. Under § 301.9100-3, a request for relief will be granted when the taxpayer provides evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government.

### CONCLUSION

Based solely on the facts submitted and representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, Company is granted an extension of time of 120 days from the date of this letter to make an entity classification election to be treated as an association taxable as a corporation by filing a Form 8832, effective Date 3, with the appropriate service center. A copy of this letter should be attached to the election. A copy of this letter is attached for this purpose.

This ruling is contingent upon Company filing within 120 days of this letter any and all required Federal income tax and information returns from Date 3 to the present consistent with the requested relief.

Except as specifically set forth above, we express or imply no opinion concerning the federal tax consequences of the facts of this case under any other provision of the Code. In addition, § 301.9100-1(a) provides that the granting of an extension of time for making an election is not a determination that the taxpayer is otherwise eligible to make the election.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. In accordance with a power of attorney on file with this office, we are sending copies of this letter to your authorized representatives.

Sincerely,

Associate Chief Counsel  
(Passthroughs & Special Industries)

By: \_\_\_\_\_  
Adrienne M. Mikolashek  
Chief, Branch 3  
Office of the Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosures (2)

A copy of this letter

A copy for § 6110 purposes

cc: